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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,736	12/21/2001	Fung-Jou Chen	KCX-484 (17155)	3665
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DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/036,736	Applicant(s) CHEN ET AL.	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/22/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 67-127 and 129-132 is/are pending in the application.
 4a) Of the above claim(s) 78, 87, 88, 98-100, 111 and 122-126 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 67-77, 79-86, 89-97, 101-110, 112-121, 127 and 129-137 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/22/06 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-8, 67-77, 79-86, 89-97, 101-110, 112-121, and 127-132 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 67- 71, 73, 75-77, 79-85, 92-96, 97, 114-117, 120, 121, 127, 129-132, 133, 134, 136, and 137 are rejected under 35 U.S.C. 102(b) as being anticipated Chen et al. USPN 5990377.

As to claim 1, 67, 114, 120, 121, and 127, 129-132, see Abstract; col. 1, lines 20-32; col. 2, line 59 through col. 3, line 6; col. 7, lines 39-59; col. 8, lines 46-61; col. 36, line 64 through col. 37, line 16; Figures 1-3. As to the abrasive material attached to the outer cover, Chen discloses the adhesive containing regions are noticeably stiffer than the surrounding base sheet (col. 45, lines 59-60). In this instance the adhesive, which is attached to the outer cover, is abrasive relative to the surrounding base sheet. As to the item being used to clean a surface, this limitation is directed to an intended use of the article. Intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). If the prior art structure is capable of performing the intended use, then it meets the claim limitations.

As to claims 3 and 69, see col. 9, lines 49-57.

As to claims 4 and 70, see Figure 1 and col. 3, lines 37-45.

As to claims 5 and 71, see col. 5, lines 5-15.

As to claims 7 and 73, see Figure 14.

As to claim 75, see col. 5, lines 44-48.

As to claim 76, see col. 29, lines 8-26.

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As to claim 77 and 117, see co. 12, lines 24-29.

As to claim 79-81, 92, 93, 115, and 116 see Figure 1 and col. 3, line 45 through col. 4, line 48.

As to claims 82, 95, 96, and 97 see col. 4, lines 13-18 and col. 33-col. 34.

As to claim 83, see Figure 6.

As to claim 84, see col. 43, lines 5-10.

As to claim 85, see col. 21, line 65 through col. 22, line 8.

As to claim 94, see col. 34, line 47 through col. 35, line 24, where Chen discloses a latex-free embodiment.

As to claims 133, 134, 136, and 137, Chen discloses both sides of the web may be absorbent (col. 36, lines 41-49).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 6, 8, 68, 72, 74, 86, 89, 90, 91, 101-113, 118, 119, and 135 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen USPN 5990377.

As to claims 2, 6, 68, 72, 103, and 118, Chen describes an uncreped three dimensional through dried cellulosic web of bulk enhancing fibers. Chen does not specifically describe the exact number of layers of the multi-ply structure. However,

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Chen discloses a multi-layer structure is desired allowing better control of physic properties by tailoring the material composition of each layer (col. 3 ,lines 55-62). It would have been obvious to one or ordinary skill in the art to use the claimed number of plies and folded stacks as a mere modification of a specific size and shape does not patentably distinguish the claimed invention from the prior art.

As to claims 8, 74, 86, 89, 90, 91, 101, 102, and 104-113, Chen discloses the present invention substantially as claimed, see the rejection of claim 1 supra. However, Chen does not disclose the claimed absorbent capacity. Chen describes the basis weight, density and materials.

Regarding the absorbent capacity and the examiner's interpretation of the test and performance characteristics of the instant apparatus claims, when the structure recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A *prima facie* case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim except a property or function and the examiner can not determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof as in *In re Fitzgerald*, 619 F.2d 67, 70 205 USPQ 594, 596 (CCPA 1980).

As to claim 135, Chen discloses both sides of the web may be absorbent (col. 36, lines 41-49).

Claim Rejections - 35 USC § 103

7. Claims 1, 4-6, 67, 70-72, 79-81, 83, 133, and 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prodoehl et al. USPN 6993805.

As to claims 1, 6, 67, 72, 83, 133, and 134 Prodoehl discloses an absorbent sponge comprising a multi-layer compressible substrate having attached multiple plies 31,32 (Figure 3) comprising pulp fibers (col. 5, lines 50-58) and a wet strength agent (col. 7, lines 1-9) and having the claimed basis weight (col. 4, lines 59-62), a flexible liquid permeable outer cover 22, 40, and an abrasive material 21, attached to the outer cover (Figure 3). Prodoehl does not define an Overall Surface Depth as measured according to the present application. However, Prodoehl does disclose the general conditions of a structure with multi plies similar to the present application (col. 5, lines 14-20). Prodoehl also teaches the size and shape of the pad may be varied as well as have varying caliper zones depending on the intended use of the pad. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the substrate with the surface depth, since where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation, In re Aller et al. 105 USPQ 233.

As to claims 4, 5, 70, and 71, see col. 3, lines 20-25; col. 8, lines 2-5; col. 8, lines 51-53.

As to claim 79, see Abstract, col. 2, lines 58-67, and Figure 3.

As to claim 80, see col.3 , lines 15-26.


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As to claim 81, see col. 8, lines 2-5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

March 16, 2006